

By the Committee on Judiciary; and Senator Bradley

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1 A bill to be entitled

2 An act relating to self-authentication of documents;
3 amending s. 90.902, F.S.; allowing certified copies of
4 official public documents to be filed electronically;
5 providing a method for authenticating public documents
6 other than by certified copies; amending s. 90.803,
7 F.S.; conforming a cross-reference; providing an
8 effective date.

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10 Be It Enacted by the Legislature of the State of Florida:

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12 Section 1. Subsection (4) of section 90.902, Florida
13 Statutes, is amended, subsections (5) through (11) of that
14 section are renumbered as subsections (6) through (12),
15 respectively, and a new subsection (5) is added to that section,
16 to read:

17 90.902 Self-authentication.—Extrinsic evidence of
18 authenticity as a condition precedent to admissibility is not
19 required for:

20 (4) A copy of an official public record, report, or entry,
21 or of a document authorized by law to be recorded or filed and
22 actually recorded or filed in a public office, including data
23 compilations in any form, certified as correct by the custodian
24 or other person authorized to make the certification by
25 certificate complying with subsection (1), subsection (2), or
26 subsection (3) or complying with any act of the Legislature or
27 rule adopted by the Supreme Court, which certified copy may be
28 filed electronically pursuant to s. 28.22205. An electronically
29 filed certified copy is admissible to the same extent as the

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30 original would be if it complies with this subsection.

31 (5) A copy of any pleading, order, or other filing in any
32 court sitting in the United States or a United States territory,
33 or a document or record entry filed with or retained by the
34 United States or any state, municipality, district,
35 commonwealth, territory, or governmental department or agency of
36 such an entity which is available to the public from a website
37 operated by a governmental agency or authorized by a
38 governmental agency.

39 (a) The party seeking authentication of a document pursuant
40 to this subsection must:

41 1. File a Notice of Reliance on Electronic Records which
42 attaches a copy of the document to be authenticated and
43 discloses the website and web address where the document can be
44 located.

45 2. Serve the written Notice of Reliance on Electronic
46 Records at least 20 days before a hearing at which the
47 authenticity of the document or its acceptance by a court as an
48 authentic document is at issue. The court may waive or shorten
49 the time period for filing the notice set forth in this
50 subparagraph.

51 (b) A party may object to the authenticity of a document
52 that is the subject of a Notice of Reliance on Electronic
53 Records by filing and serving an affidavit on all other parties
54 at least 5 days before a hearing, unless such time period is
55 waived or shortened by the court. The affidavit must do one of
56 the following:

57 1. Challenge the authenticity of the document by detailing
58 in writing the portion of the document which is not authentic. A

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59 copy of what the challenging party asserts is the true, correct,
60 and authentic document must be attached to the affidavit.

61 2. Assert that the document does not exist on the website
62 or web address as specified in the Notice of Reliance on
63 Electronic Records.

64 (c) After review and consideration by the court, the court
65 shall deem authentic the document that is the subject of the
66 Notice of Reliance on Electronic Records unless:

67 1. The party seeking authentication of the document does
68 not satisfy the requirements of paragraph (a);

69 2. An affidavit objecting to the authenticity of the
70 document is filed pursuant to paragraph (b) and the court
71 sustains the objection;

72 3. The document does not have the same content or text, in
73 all material respects, as the document that appears on the
74 website identified in the Notice of Reliance on Electronic
75 Records; or

76 4. The court otherwise determines that the document is not
77 authentic.

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79 This subsection does not prohibit a party from authenticating a
80 document using the alternative methods of authentication under
81 subsection (4) or s. 90.901.

82 Section 2. Paragraph (a) of subsection (6) of section
83 90.803, Florida Statutes, is amended to read:

84 90.803 Hearsay exceptions; availability of declarant
85 immaterial.—The provision of s. 90.802 to the contrary
86 notwithstanding, the following are not inadmissible as evidence,
87 even though the declarant is available as a witness:

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88 (6) RECORDS OF REGULARLY CONDUCTED BUSINESS ACTIVITY.—

89 (a) A memorandum, report, record, or data compilation, in
90 any form, of acts, events, conditions, opinion, or diagnosis,
91 made at or near the time by, or from information transmitted by,
92 a person with knowledge, if kept in the course of a regularly
93 conducted business activity and if it was the regular practice
94 of that business activity to make such memorandum, report,
95 record, or data compilation, all as shown by the testimony of
96 the custodian or other qualified witness, or as shown by a
97 certification or declaration that complies with paragraph (c)
98 and s. 90.902(12) ~~90.902(11)~~, unless the sources of information
99 or other circumstances show lack of trustworthiness. The term
100 "business" as used in this paragraph includes a business,
101 institution, association, profession, occupation, and calling of
102 every kind, whether or not conducted for profit.

103 Section 3. This act shall take effect upon becoming a law.

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